

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 Case No.: 3:22-cv-00428-CSD

4 JUSTIN M. MULLIS,

5 Plaintiff

6 v.

7 RICK MOORE,

8 Defendant

Order

9 Plaintiff filed an application to proceed *in forma pauperis* (IFP) and pro se complaint.
10 (ECF Nos. 2, 2-1.) When he filed those documents, Plaintiff was an inmate in the Elko County
11 Jail. On January 31, 2023, the court entered an order granting Plaintiff's IFP application.
12 However, as an inmate, Plaintiff is required to pay an initial partial filing fee in the amount of
13 \$10.02, and therefore, whenever his prison account exceeds \$10, he is required to make monthly
14 payments in the amount of 20 percent of the preceding month's income credited to his account
15 until the full \$350 filing fee is paid. As such, the court directed that a copy of the order be sent to
16 the chief of inmate services for the Elko County Jail so that the payments could be taken from
17 Plaintiff's inmate account (when sufficient funds exist). Plaintiff was allowed to proceed with his
18 excessive force claim against Officer Rick Moore. (ECF No. 9.)

19 On February 2, 2023, Plaintiff filed a notice of change of address stating that he was
20 sentenced on January 22, 2023, and is now located at NDOC in Carson City, Nevada. (ECF No.
21 12.) The Clerk's docket entry reflects a change of address to P.O. Box 2028 in Elko, Nevada;
22 however, this was the sending address from Plaintiff and not NDOC in Carson City, Nevada.
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1 The court searched NDOC's inmate database in February of 2023, and it reflected
2 Plaintiff was housed in NDOC's Northern Nevada Correctional Center (NNCC). As such, on
3 February 8, 2023, the court directed the Clerk to adjust the docket to reflect this change of
4 address to NNCC, and advised Plaintiff that in the future, he is required to immediately file a
5 notice of change of address in compliance with Local Rule IA 3-1, including, if applicable, the
6 particular facility within NDOC where he is housed. (ECF No. 13.)

7 In case Plaintiff did not receive the court's order at ECF No. 9 due to his transfer to the
8 custody of NDOC, the court directed the Clerk to send its February 8, 2023, order, as well as
9 ECF Nos. 9 and 10 to Plaintiff at NNCC. The court gave Plaintiff 30 days to pay the initial
10 partial filing fee in the amount of \$10.02, and thereafter, whenever his prison account exceeds
11 \$10, to make monthly payments in the amount of 20 percent of the preceding month's income
12 credited to his account until the full \$350 filing fee is paid. He was advised this is required even
13 if his action is dismissed or is otherwise unsuccessful. The court directed the Clerk to send a
14 copy of the Order to NDOC's Chief of Inmate Services. (*Id.*)

15 In addition, the court noted that the Clerk had issued a summons for defendant Rick
16 Moore. (ECF No. 11.) The court directed the Clerk to send Plaintiff a USM-285 form at NNCC,
17 and the court gave Plaintiff 21 days to furnish the form with the relevant information for
18 Defendant Moore to the U.S. Marshal. The court advised Plaintiff that service had to be
19 completed within 90 days. (*Id.*)

20 That order was returned as undeliverable. (ECF No. 14.)

21 The summons for Rick Moore was returned as executed on April 4, 2023, indicating
22 Moore was served on March 27, 2023. (ECF No. 15.) The notice of service was also returned as
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1 undeliverable as to Plaintiff, with a notation that he was not at NNCC and was housed at High
2 Desert State Prison (HDSP). (ECF No. 16.)

3 The court has again searched NDOC's inmate database, which does reveal Plaintiff is
4 currently housed at HDSP.

5 The **Clerk** shall electronically **SEND** a copy of this Order as well as ECF Nos. 9 and 13
6 to Plaintiff at **HDSP**.

7 Plaintiff has up to and including **April 21, 2023**, to file a notice of change of address in
8 compliance with Local Rule IA 3-1. A failure to do so may result in this action being dismissed.

9 In the future, as soon as Plaintiff's custody location changes, he shall immediately file a notice of
10 change of address, indicating the particular facility within NDOC where he is housed, or he will
11 face dismissal under Local Rule IA 3-1.

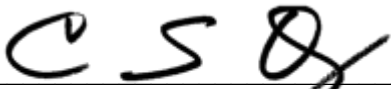
12 If he has not already done so, Plaintiff has **30 days** from the date of this Order to pay the
13 initial partial filing fee in the amount of \$10.02. Thereafter, whenever his prison account exceeds
14 \$10, he is required to make monthly payments in the amount of 20 percent of the preceding
15 month's income credited to his account until the full \$350 filing fee is paid. This is required even
16 if the action is dismissed or is otherwise unsuccessful.

17 Under Federal Rule of Civil Procedure 12(a)(1)(A)(i), Moore has 21 days from the date
18 he was served, or until April 17, 2023, to file an answer or other responsive pleading. Once
19 Moore has appeared in this case, Plaintiff must serve a copy of every pleading or other document
20 submitted for consideration by the court upon the defendant or, if an appearance has been entered
21 by counsel, upon the attorney. Plaintiff must include with the original of each document to be
22 filed with the court a certificate stating that a true and correct copy of the document was served
23 on the defendant, or counsel, if the defendant has an attorney. Under Local Rule 5-1 the proof of

1 service must show the day and manner of service and the name of the person served. The court
2 may disregard any paper received which has not been filed with the Clerk, or that fails to include
3 a certificate of service.

4 **IT IS SO ORDERED.**

5 Dated: April 5, 2023

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8 Craig S. Denney
9 United States Magistrate Judge
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